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# TRANSMITTAL FORM

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Application Number	10/036,972-927
Filing Date	October 19, 2001
Inventor(s)	Arnab DAS et al.
Group Art Unit	2616
Examiner Name	Mohammad Sajid Adhami
Attorney Docket Number	129250-002148/US

## ENCLOSURES (check all that apply)

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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC	Attorney Name	John E. Curtin	Reg. No.	37,602
Signature					
Date	February 22, 2007				



IN THE U.S. PATENT AND TRADEMARK OFFICE

Appellants: Arnab DAS et al.  
Application No.: 10/036,927  
Art Unit: 2616  
Filed: October 19, 2001  
Examiner: Mohammad Sajid Adhami  
For: AN ADAPTIVE HYBRID RETRANSMISSION  
METHOD FOR WIRELESS COMMUNICATIONS  
Attorney Docket No.: 129250-002148/US

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**APPELLANTS' RESUBMITTED REPLY TO THE EXAMINER'S ANSWER ON  
APPEAL**

**MAIL STOP APPEAL BRIEF - PATENTS**

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Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

February 22, 2007

Sir/Madam:

In response to the Examiner's re-submitted Answer mailed January 11, 2007 ("Answer") the Appellants re-submit the following Reply Brief which was originally submitted on October 10, 2006.

**APPELLANTS' REPLY BRIEF ON APPEAL**

**A. ARGUMENTS:**

**(i) The claimed retransmissions are not inherently disclosed in Kwan**

In the Appellants' opening brief the Appellants pointed out that Kwan is directed to a transmission scheme and does not disclose or suggest the claimed *retransmission* of a previous transmission within a fixed length frame using a plurality of codes, where the number of codes used in the retransmission may vary based on the condition of a communication channel. In the Answer the Examiner implicitly, if not explicitly, acknowledges that Kwan does not disclose the claimed retransmissions. The Examiner states:

“Therefore, it is *inherent* in the transmission method of Kwan that retransmissions will also vary the number of codes based on a condition of a communication channel.” (italics added)

Said another way, even though Kwan does not disclose the claimed retransmissions the Examiner nonetheless feels they are inherent from Kwan's transmission scheme. This is incorrect.

The disclosure of a particular transmission scheme does not inherently dictate or imply that retransmissions must use the same scheme. Kwan does not say its retransmissions must use the same scheme as its transmissions; rather, the Examiner appears to make this leap based on his own opinion. Kwan barely mentions retransmissions at all except in passing. When retransmissions are mentioned, there is no discussion or implication that the same method used in transmissions must be used in retransmissions. In fact, the opposite is the case; retransmissions many times are sent using a different scheme than original transmissions.

One example of such a circumstance is set forth in the present specification on page 5, lines 17 through 30 where original transmissions are sent using QPSK while retransmissions are sent using QAM.

**(ii). Kwan does not disclose or suggest the use of a different number of codes in a retransmission**

Claim 6 modifies independent claim 1 such that the number of codes used in a subsequent retransmission differs from the number of codes used in the original transmission. Page 5 of the specification again provides an example of this where original QPSK transmissions are sent using 6 codes, but only 3 codes are used in the QAM retransmissions.

With respect to claim 6, in the Answer the Examiner states:

“Kwan discloses a method using different [sic] number of codes for a first transmission and a subsequent transmission.”

While Kwan may always use the same transmission scheme, this does not dictate the type of retransmission scheme that must or may be used to one skilled in the art. Further, the Appellants' respectfully submit that one skilled in the art would not equate a transmission with a retransmission as the Examiner has apparently done.

**B. CONCLUSION:**

Appellants respectfully request that the members of the Board reverse the decision of the Examiner and allow claims 1-20.

APPELLANTS' REPLY BRIEF ON APPEAL

U.S. Application No.: 10/036,972

Atty. Docket: 129250-002148/US

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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